

106TH CONGRESS
1ST SESSION

H. R. 1947

To provide for the development, operation, and maintenance of the Nation's harbors, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 26, 1999

Mr. SHUSTER (for himself and Mr. OBERSTAR) (both by request) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

A BILL

To provide for the development, operation, and maintenance of the Nation's harbors, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This title may be cited as the “Harbor Services Fund
5 Act of 1999”.

6 **SEC. 2. HARBOR SERVICES FEE.**

7 (a) IN GENERAL.—There is hereby imposed a fee on
8 services provided to commercial vessels for port use.

9 (b) AMOUNT OF FEE.—The amount of the fee im-
10 posed by subsection (a) shall be based on vessel category

1 and vessel capacity unit in accordance with the following
 2 table:

Vessel Category:	Rate of Fee:
Bulker	\$0.12 per vessel capacity unit
Tanker	\$0.28 per vessel capacity unit
General	\$2.74 per vessel capacity unit
Cruise	\$0.12 per vessel capacity unit.

3 The aggregate amount of fees imposed under the authority
 4 of this section in a fiscal year shall be sufficient to pay
 5 the projected total expenditures of the Department of the
 6 Army, subject to appropriations, for harbor development,
 7 operation, and maintenance for a fiscal year. If amounts
 8 appropriated in any fiscal year are less than the amount
 9 collected in fees for the prior fiscal year, then the rate
 10 of the fee for each vessel category shall be reduced in the
 11 year of the appropriation so as to result in collections not
 12 exceeding the total amount appropriated from the Harbor
 13 Services Fund for that fiscal year.

14 (c) IMPOSITION OF FEES.—The fee imposed by sub-
 15 section (a) shall be imposed on a voyage basis for commer-
 16 cial vessels and shall be payable by the operator of a com-
 17 mercial vessel upon the first port use by a vessel entering
 18 a United States port from a foreign port or at the origi-
 19 nating port for domestic voyages.

20 (d) AUTHORIZATION OF COLLECTION AND APPRO-
 21 PRIATION OF FEES.—Fees imposed pursuant to this sec-
 22 tion may be collected only to the extent provided in ad-
 23 vance in appropriations Acts. Amounts so collected in any

1 fiscal year shall be available for obligation in the following
2 fiscal year only to the extent and in the amount provided
3 in advance in the appropriations Act for such fiscal year.
4 Such fees are authorized to be appropriated to remain
5 available until expended.

6 (e) EXEMPTIONS.—No fee shall be imposed under
7 this section for port use—

8 (1) by the United States or any agency or in-
9 strumentality thereof;

10 (2) in connection with intraport movements;

11 (3) in connection with transporting commercial
12 cargo from the United States mainland to Alaska,
13 Hawaii, or any possession of the United States for
14 ultimate use or consumption in Alaska, Hawaii, or
15 any possession of the United States;

16 (4) in connection with transporting commercial
17 cargo from Alaska, Hawaii, or any possession of the
18 United States to the United States mainland, Alas-
19 ka, Hawaii, or such possession for ultimate use or
20 consumption in the United States mainland, Alaska,
21 Hawaii, or such a possession;

22 (5) in connection with transporting commercial
23 cargo within Alaska, Hawaii, or a possession of the
24 United States; or

1 (6) in connection with transporting passengers
2 on United States flag vessels operating solely within
3 the State waters of Alaska or Hawaii and adjacent
4 international waters.

5 (f) COLLECTION OF FEE.—The Secretary of the
6 Treasury shall be responsible for prescribing regulations—

7 (1) providing for the manner and method of
8 payment and collection of the fee imposed by this
9 section;

10 (2) providing for the posting of bonds to secure
11 payment of such fee; and

12 (3) exempting any transaction or class of trans-
13 actions from such fee where the collection of such
14 fee is not administratively practical.

15 (g) AUDIT OF FEES.—The Secretary of the Army
16 shall be responsible for prescribing regulations—

17 (1) providing for the remittance or mitigation
18 of penalties and the settlement or compromise of
19 claims;

20 (2) providing for a periodic review of amounts
21 collected under this section to ensure that the fees
22 charged fairly approximate the cost of services pro-
23 vided to commercial vessels for port use;

24 (3) providing for the prospective adjustment of
25 the rate of the fee for any one or more of the bulker,

1 tanker, or cruise vessel categories by up to \$0.05,
2 or, in the case of the general vessel category, by up
3 to \$0.25, as necessary to fairly approximate the cost
4 of services provided to commercial vessels in each
5 vessel category; and

6 (4) such other regulations as may be necessary
7 to carry out the purposes of this Act.

8 **SEC. 3. HARBOR SERVICES FUND.**

9 (a) CREATION OF FUND.—There is hereby estab-
10 lished in the Treasury of the United States a Harbor Serv-
11 ices Fund (hereinafter referred to as the “Fund”) into
12 which shall be deposited as offsetting receipts all fees col-
13 lected under section 2 of this Act and to which shall be
14 transferred balances in the Harbor Maintenance Trust
15 Fund established pursuant to 26 U.S.C. 9505.

16 (b) PURPOSES.—(1) Subject to subsection (c),
17 amounts in the Fund may be made available for each fis-
18 cal year to pay—

19 (A) 100 percent of the eligible harbor develop-
20 ment costs;

21 (B) 100 percent of the eligible operations and
22 maintenance costs assigned to commercial navigation
23 of all ports within the United States; and

1 (C) 100 percent of the eligible costs of main-
2 taining the Federal dredging capability for the Na-
3 tion.

4 (2) In addition to the purposes set forth in paragraph
5 (1) of this subsection, an amount of up to \$100,000,000
6 per fiscal year is authorized to be appropriated from the
7 Fund for dredging of berthing areas and construction and
8 maintenance of bulkheads associated with a Federally au-
9 thorized project and for all or a portion of the non-Federal
10 share of project costs of an eligible non-Federal interest
11 participating in the construction, operation, or mainte-
12 nance of a Federally authorized project.

13 (c) EXPENDITURES FROM HARBOR SERVICES
14 FUND.—(1) Except as provided in paragraph (2),
15 amounts in the Fund shall be available, as provided in ad-
16 vance in appropriation Acts, to carry out subsection (b)
17 of this section and for the payment of expenses incurred
18 in administering the fee imposed by section 2(a) of this
19 Act. Such amounts are authorized to be appropriated to
20 remain available until expended.

21 (2) From the balances transferred to the Harbor
22 Services Fund pursuant to section 3(a) of this Act, such
23 sums as may be necessary are hereby reserved to imple-
24 ment legislation to be enacted to establish the Saint Law-

1 rence Seaway Development Corporation as a performance
2 based organization.

3 **SEC. 4. CONFORMING AMENDMENTS.**

4 (a) Section 210 of the Water Resources Development
5 Act of 1986 (33 U.S.C. 2238) is permanently repealed
6 upon enactment of an appropriation Act for fiscal year
7 2000 authorizing the collection of fees pursuant to section
8 2(d) of this Act.

9 (b) Sections 4461 and 4462 of title 26, United States
10 Code, are permanently repealed upon enactment of an ap-
11 propriation Act for fiscal year 2000 authorizing the collec-
12 tion of fees pursuant to section 2(d) of this Act.

13 **SEC. 5. DEFINITIONS.**

14 For purposes of this Act—

15 (1) The term “port” means any channel or har-
16 bor (or component thereof) in the United States
17 which is not an inland waterway and which is open
18 to public navigation. The term “port” does not in-
19 clude any channel or harbor with respect to which
20 no Federal funds have been used since 1989 for con-
21 struction, operation, or maintenance, or which was
22 deauthorized by Federal law before 1997 or to any
23 channel or harbor where commercial vessels cannot
24 load or unload cargo or passengers.

1 (2) The term “port use” means the use of a
2 channel by a commercial vessel for entering and
3 exiting a port for commercial purposes.

4 (3) The term “commercial cargo” means any
5 cargo transported on a commercial vessel. The term
6 does not include bunker fuel, ship’s stores, sea
7 stores, or equipment necessary to the operation of a
8 vessel, or fish or other aquatic animal life caught
9 and not previously landed on shore.

10 (4) The term “commercial vessel” means any
11 vessel in excess of 3,000 gross registered tons used
12 in transporting cargo or passengers by water for
13 compensation or hire, or in transporting cargo by
14 water in the business of the owner, lessee, or oper-
15 ator of the vessel. The term does not include any
16 ferry engaged primarily in the ferrying of passengers
17 (including their vehicles) between points within the
18 United States, or between the United States and
19 contiguous countries.

20 (5) The term “ferry” means any vessel which
21 arrives in the United States on a regular schedule
22 during its operating season at intervals of at least
23 once each business day.

24 (6) The term “vessel capacity unit” means the
25 unit measure of vessel capacity represented by net

1 tonnage, or, in the case of container ships or cruise
2 ships, gross tonnage.

3 (7) The term “United States mainland” means
4 the contiguous 48 States.

5 (8) The term “eligible harbor development
6 costs” means the Federal share of the costs associ-
7 ated with construction of the general navigation fea-
8 tures at a harbor or inland harbor within the United
9 States.

10 (9) The term “bulker” as a vessel category
11 means a waterborne vessel designed to transport dry
12 bulk cargo, including self-propelled vessels and non
13 self-propelled vessels.

14 (10) The term “tanker” as a vessel category
15 means a waterborne vessel designed to transport liq-
16 uid bulk cargo, including self-propelled vessels and
17 non self-propelled vessels.

18 (11) The term “general” as a vessel category
19 means a waterborne vessel designed to transport
20 general cargo.

21 (12) The term “cruise ship” as a vessel cat-
22 egory means a waterborne vessel designed to trans-
23 port fare paying, berthed passengers.

24 (13) The term “eligible non-Federal interest”
25 means a non-Federal interest for a Federally author-

1 ized navigation project at a port where the average
2 amount of the harbor services fee collected over
3 three consecutive fiscal years exceeds the average
4 Federal expenditures from the Harbor Services
5 Fund at that port during the same consecutive fiscal
6 years by \$10,000,000.

7 (14) For purposes of paragraphs (2), (3), and
8 (4) of section 2(d), the term “commercial cargo”
9 does not include crude oil with respect to Alaska.

10 **SEC. 6. EFFECTIVE DATE.**

11 The fees prescribed pursuant to section 2(a) of this
12 Act shall be imposed on the owners or operators of com-
13 mercial vessels beginning on October 1, 1999.

○